

GOV DOC

A

M3

IND

SI

1984

BOSTON PUBLIC LIBRARY



3 9999 08782 709 1

BOSTON
PUBLIC
LIBRARY



MASSACHUSETTS COMMISSION

ON INDIAN AFFAIRS

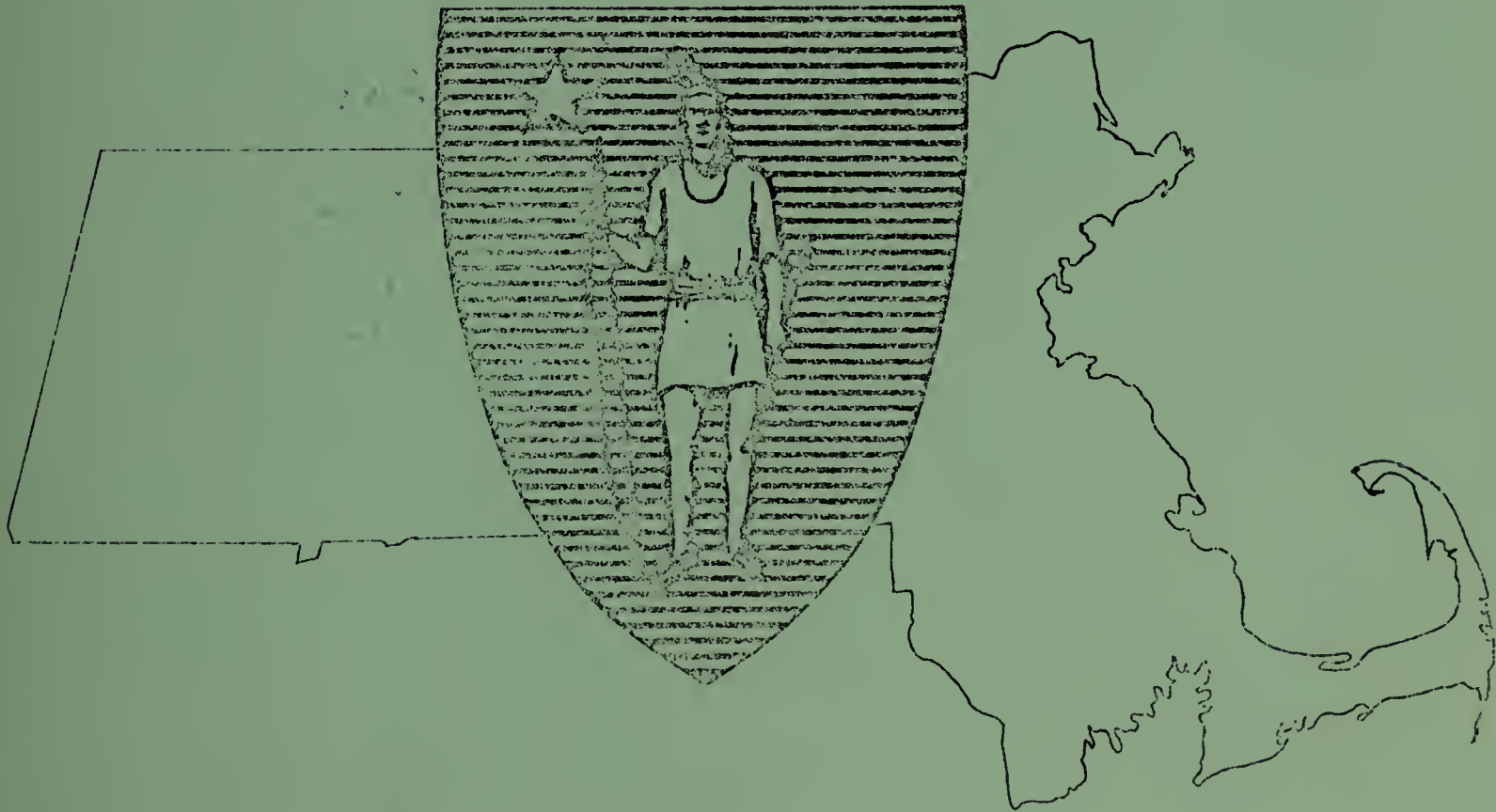
1984

BOSTON PUBLIC LIBRARY
GOVERNMENT DOCUMENTS DEPARTMENT
RECEIVED

JAN 20 1989

ANNUAL REPORT

△
M'S
IND
SI
984





The Commonwealth of Massachusetts

Commission on Indian Affairs

John W. McCormack Building

One Ashburton Place - Rm. 1004

Boston, Mass. 02108

Telephone 617-727-6394 / 6966

MICHAEL S. DUKAKIS

Governor

AMY S. ANTHONY

Secretary

JOHN A. PETERS

Executive Director

December 28, 1984

Honorable Michael S. Dukakis
Governor of the Commonwealth of Massachusetts
State House, Room 360
Boston, Massachusetts 02133

Dear Governor Dukakis:

I am pleased to submit to you the 1984 Annual Report for the Massachusetts Commission on Indian Affairs. The Report outlines the Commission's major activities and achievements over the past year.

A number of our activities have been easily accomplished because of the increased assistance and cooperation we have received from you and your administration. For this, we are grateful. It has enabled us to provide better solutions to the problems of our Native American constituents within the Commonwealth.

In efforts to further improve working relations and continue mutual understanding between the Commission and your administration, it is my hope that this office will be included in the policy making decisions of the various state agencies in areas that affect the unique culture of the Native American Indian.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Peters".

John A. Peters
Executive Director

JAP:bs

T A B L E O F C O N T E N T S

LETTER TO THE GOVERNOR	i
TABLE OF CONTENTS	ii
ACT ESTABLISHING THE COMMISSION ON INDIAN AFFAIRS	1
COMMISSION MEMBERS	2
BUDGET (Fiscal Year 1985)	3
LEGISLATION	
Preventing the Breakup of American Indian Families	4
Investigate & Study the Seal and Motto of the Commonwealth	4
Increasing the Number of Scholarships for Native Americans	5
Providing Expense Monies for Native American Scholarship Recipients	5
INFORMATION, ASSISTANCE, AND REFERRALS	6
FISCAL YEAR 1986 BUDGET REQUEST	7-9
HONORARY COMMISSIONER ON INDIAN AFFAIRS	10
INDIAN SKELETAL REMAINS	11
REINTERMENT PROGRAM	12
HUNTING & FISHING CASES	13
MASSACHUSETTS INTERNSHIP PROGRAM	14
DISADVANTAGED STUDENT AID PROGRAM	15
REPORT ON THE GOVERNOR'S INTERSTATE INDIAN COUNCIL CONFERENCE	16-19
ATTACHMENTS	
#1 An Act to Prevent the Breakup of American Indian Families, and to Establish Standards for Removing and Placing Indian Children Away from their Families	20-28
#2 Resolve Providing for an Investigation and Study by a Special Commission relative to the Seal and Motto of the Commonwealth	29

ATTACHMENTS (Cont.)

#3	An Act Increasing the Number of Scholarships for Native Americans	30
#4	An Act Relative to Scholarships for Native Americans	31

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Seventy-one

AN ACT ESTABLISHING THE COMMISSION ON INDIAN AFFAIRS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 7 of the General Laws is hereby amended by adding after section 37 the following section:-

Section 38. There shall be in the executive office of administration and finance a commission on Indian affairs, consisting of seven members who shall be appointed by the governor. All of the members shall be of American Indian descent and shall represent the major tribes of American Indian population located within the commonwealth. Each member shall serve for a term of three years.

Said commission shall meet at least four times annually, but may meet as often as it deems necessary for the proper conduct of its affairs, and shall elect from its membership a chairman and such other officers as may be required, each to serve for a term of one year.

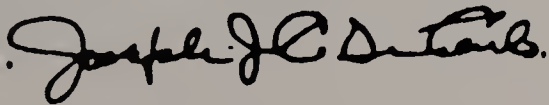
Said commission shall investigate problems common to American Indians and persons of American Indian descent who are residents of the commonwealth. It shall assist tribal councils, Indian organizations and individuals in their relationship with agencies of state and local government, assist with social services, education, employment opportunities, health, housing problems, civil rights, legal aid, treaties, taking of a census of Indian residents, and any other rights or services concerning Indian residents of the commonwealth.

Said commission may make recommendations to the secretary of administration and finance concerning programs and policies that will best serve the interest of the Indian residents of the commonwealth and shall make an annual report of its activities to the said secretary and file a copy thereof with the clerk of the senate and house of representatives on or before the last Wednesday in January of each year.

House of Representatives, July 22, 1974.

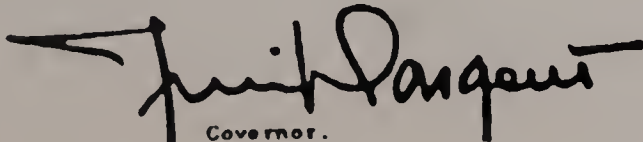
Passed to be enacted,  Speaker.

In Senate, July 27, 1974.

Passed to be enacted,  Acting President.

August 2, 1974.

Approved.


Governor.

COMMISSION MEMBERS

According to Massachusetts General Law Chapter 7, Section 38, the Massachusetts Commissioners shall serve for a term of three years. In October 1983, the terms expired and in June 1984, official appointments took place.

Aside from one new appointment, all the Commissioners were reappointed for another term.

<u>NAME</u>	<u>REPRESENTING</u>	<u>TRIBAL AFFILIATION</u>
Hannah M. Averett, Chairp. Great Neck Road Mashpee, MA 02649 Tel # (617) 477-9362	Wampanoag-Mashpee	Mashpee-Wampanoag
Gladys A. Widdiss, V-Chairp. 172 School Street Wayland, MA 01778 Tel # (617) 653-7691	Wampanoag-Gay Head	Gay Head-Wampanoag
Edith Andrews 149 Clarendon Street North Dartmouth, MA 02747 Tel # (617) 994-4745	Bristol County	Gay Head-Wampanoag
Dr. Helen Attaquin 74 East Grove Street Middleboro, MA 02346 Tel # (617) 947-1534	Plymouth County	Gay Head-Wampanoag
Robert N. Clark 48 South Main Street Belchertown, MA 01007 Tel # (413) 323-6475	Balance of State	Gay Head-Wampanoag
John S. Sapiel 229 Jones Road Falmouth, MA 02540 Tel # (617) 548-2593	Boston Indian Council	Penobscot
Lucyann Swenson (new appointment 20 Singletary Ave. June 1984) Sutton, MA 01527 Tel # (617) 865-9828	Nipmuck	Chaubunagungamaug- Nipmuck

FISCAL YEAR 1985 BUDGET
(July 1, 1984 - June 30, 1985)

In spite of our efforts to increase our annual budget to \$120,393 which would include additional staff, legal counsel, technical assistance, etc., the Governor recommended level funding for this fiscal year.

02	Salaries (3)	60,192
10	Travel Expenses	6,000
13	Special Account	3,000
14	Office Expenses	3,585
16	Rentals	445

\$73,222

LEGISLATIVE BILLS

SENATE BILL #793 AN ACT TO PREVENT THE BREAKUP OF AMERICAN INDIAN FAMILIES

The bill was refiled this year and the hearing was held on March 5, 1984 before the Committee on Health and Human Services. Again, it passed favorable. It then went to Senate, Ways, and Means where it passed to Third Readings. In May, it came out of Third Readings and went to the House, Ways, and Means Committee. While it was there, we sought the support of Mr. Kendall and Representatives Bunte and Fitzgerald to help push it out. We also sought the support of EOCD and their legal Counsel, however, the bill died in Committee. ATTACHMENT #1

HOUSE BILL #5498 A RESOLUTION PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO THE SEAL AND MOTTO OF THE COMMONWEALTH

At the suggestion of Commissioner Clark and with the assistance of Representative Rushing a bill was drafted and filed to set up a Committee to investigate and study the seal and motto of the Commonwealth.

The hearing was held on April 11th before the Committee on State Administration. There was no opposition. It passed favorable. After the hearing, Committee members suggested that John Peters be put on the investigation committee. The bill then went before the Committee on Joint Rules. No further action was taken this year. ATTACHMENT #2

HOUSE BILL #3622 AN ACT INCREASING THE NUMBER OF SCHOLARSHIPS FOR NATIVE
AMERICANS AND HOUSE BILL #3624 AN ACT RELATIVE TO SCHOLARSHIPS FOR NATIVE
AMERICANS

Both bills were refiled and the hearings were scheduled for the same day (April 11th) before the Committee on Education. While waiting for the hearing date, we sought the support of the Board of Regents of Higher Education but they felt that there should not be a special program for Native Americans because there are general scholarships for everyone and Native Americans can come under that program. Therefore, they would not support us in our efforts to acquire additional scholarships.

The bills were reported out of Committee favorable and recommended to House, Ways, and Means. With the assistance of Representative Bunte and Mr. Kendall we tried to push the bills out and get them passed before the close of the session. However, they died in Committee. ATTACHMENTS #3 & #4

INFORMATION, ASSISTANCE, & REFERRALS

INFORMATION

The Commission acts as a central information center for those who are seeking information on up-coming Native American events, names of Native American resource persons, addresses for tribal councils & Native American Organizations, etc. It also serves in the capacity of receiving information. During the past year, we received 947 calls from the general public either seeking or giving information.

REFERRALS AND ASSISTANCE RENDERED TO NATIVE AMERICANS

- 55 Individuals were referred to public and private agencies for employment.
- 15 Individuals were referred to public apartment buildings in efforts to secure housing.
- 10 Individuals were referred to the Department of Public Welfare for financial assistance.
- 10 Families received information and referral regarding foster care placement.
- 3 Individuals were referred for medical assistance.
- 14 Individuals were referred to attorneys for legal assistance.
- 45 Individuals received assistance in applying for scholarship waivers under Chapter 707, Section 1. 30 received waivers
- 15 Individuals received assistance in applying for scholarship aid under the Disadvantaged Student Aid Program - State Appropriation 7100-9704.
- 3 Individuals received assistance in tracing their Indian ancestry.
- 3 Indian alcohol & drug abusers were referred to halfway houses & clinics.
- 2 Individuals received information & assistance in applying for minority business loans.

FISCAL YEAR 1986 BUDGET REQUEST

The Commission on Indian Affairs, through the Executive Office of Communities and Development, requested an amount of \$147,030.00 for fiscal year 1986 which includes several additional staff persons.

The following outline will describe the need for funds for a minimally adequate, operating office designed to best serve the interest of the Native People, as well as to meet the mandate of the General Law creating the Commission on Indian Affairs.

OUTLINE OF NEEDS

Presently the Commission is staffed with an executive director, an administrative assistant, and a principal clerk; the key base positions which play a significant role in the overall operation of the Commission office. The basic staff positions have given the Commission a little manpower needed to begin meaningful work for the Native People and to begin meeting the mandate of the Commission. The office has just now began to run at optimum capacity.

It is now time to address the need for several additional staff persons who would aid directly in addressing specific problems of our Native People in areas defined in the Commission's mandate, and would direct the two programs established by the Massachusetts Legislature.

A. STAFF

1. Housing-Employment Specialist

Since these are the two greatest need of our People, it is important to have on staff a person responsible for meeting with Native People coming to the office with problems securing housing or employment. This person will determine what state agency would be able to help them, go with the person to the appropriate agency and stay with them throughout the application process. It would also be this person's responsibility to do follow-up work on the cases. In addition, this

person would also make available to the client any information on housing or employment that is in the Commission's housing and employment banks. Finally this person would be responsible for maintaining the housing and employment banks.

2. Program Coordinator

This person would be responsible for directing and monitoring the Indian Scholarship Program. This position is vital in that the program was established by the legislature in 1981 and presently there is no staff person responsible for the overall directing of the program. Since it's inception, the administrative assistant has worked closely with the Scholarship Committee but there is a dire need for a full-time office worker to oversee the program which awards (30) scholarship waivers to Native Americans on a semestrial basis. This process consists of, but is not limited to sending out applications, reviewing applications for all pertinent information and data evaluating applications based on need, and recommending (30) names to the Board of Regents. This person would also be responsible for doing the same on a similar program where each fiscal year, \$35,000 is appropriated for Native Americans to attend state institutions under the Disadvantaged Student Aid Program (State Budget Appropriation 7100-9704). These funds are administered by the Board of Regents for approximately (25) Indian students each semester.

Additionally, this person would direct the Re-Interment Program which was also established by an act of the legislature (1983 Chapter 713). He will work closely with the state archaeologist, tribal councils/tribes, and the Executive Office of Communities & Development (EOCD). Duties will include making sure Indian skeletal remains are certified by the state archaeologist, the remains are returned to their respective area for reinterment, after reinterment the invoices sent to the executive office for processing and payment, finally, develop procedures and contracts with Chief Legal Counsel at EOCD.

3. Researcher

This person will research state and federal laws, and treaties relative to Native Americans. This position is important because there are many treaties and laws on the books pertaining to Native Americans that are not presently enforced by the State of Massachusetts. In the beginning of 1982 a part-time intern began researching old treaties and laws relative to the hunting and fishing rights of Native Americans. After finding a law recognizing the aboriginal hunting and fishing rights of Native Americans, we presented it to the legislature. At the end of the year, the House of Representatives passed a resolution acknowledging these rights. There are other laws on the books that protect the rights of our constituency that are not recognized or over-looked. It is important to have a person on board that will bring these laws and treaties to the attention of the state.

A well-equipped, up to date office, which includes 'light/windows' is mandatory for efficient office functioning. Yet, we have had to function on very little in terms of adequate equipment, staff, and space.

B. OFFICE

1. Office Space

Our present office space was given to us by the Massachusetts Commission Against Discrimination after we were ousted from a large, scenic, office on the 10th floor of this building. We are now tucked away in space contiguous to MCAD with no windows and poor air ventilation. However, we are grateful for this space because if it wasn't for MCAD we would have no office at all. EOCD was not anxious to house us or concerned about our future location. This Commission would like to request a permanent, 'windowed' office space.

2. Telephone

It is now necessary, since the filling of a vacant position, to have a third telephone installed in our office.

C. RENTAL

1. Zerox Machine

A large function of the Commission is disseminating information and material to Commissioners, tribal councils, and native american organizations relative to job opportunities, memos, monthly reports, announcements, issue papers, material from conferences and seminars, etc. It has been necessary for us to impose on the use of MCAD's machine, which, at this time, they are looking for some form of reimbursement for the paper used.

D. CONTRACTUAL SERVICES

1. Legal Counsel

It is necessary to provide legal aid to our constituents by counsel who are sensitive to the needs, and understand the philosophy of Native Americans. We know several lawyers who meet this criteria but must be paid also.

2. Temporary Personnel

These funds would also be used to hire personnel on a temporary basis (from temporary employment agencies) to fill in for present staff in emergency situations and on vacation leave.

HONORARY COMMISSIONER ON INDIAN AFFAIRS

The Massachusetts Commissioners on Indian Affairs held a ceremony on December 4, 1984, at the Baumont Nursing Home, in Westborough, MA for former Commissioner Zara Ciscoe-Brough.

Before retiring to the nursing home in 1984 due to illness, Miss Ciscoe-Brough served enthusiastically as a Commissioner for the Indian Affairs Commission for 10 years. Because of her tireless devotion to her native community and her outstanding achievements, she was presented with a Proclamation from Governor Dukakis and all the members of the Commission bestowing the title of Honorary Member of the Commonwealth's Commission on Indian Affairs.

Those in attendance included members of the Nipmuck Tribe, the Bristol County Indian Council, a few friends, Commissioners, staff, and a local news reporter.

INDIAN SKELETAL REMAINS

Since the passage of Chapter 659 of the Acts of 1983 which provides protection to known Indian burial sites, we have kept in close contact with the State Archaeologist who has kept us apprised of various site excavations throughout the State.

This year, one burial site, located in Charlton, MA, was accidentally disturbed. The skeletal remains were removed from the site and taken to Brown University in Rhode Island for a physical analysis. After several months of examination, the remains were identified as Native American. They were then transported to the local medical examiner.

With the assistance of the State Archaeologist and the District Attorney's Office, the remains were finally released.

On March 4th, a reinterment ceremony was held in accordance with Chapter 713 of the Acts of 1983 by the Nipmuck Indian Council in Webster, MA and the remains were returned to the earth.

REINTERMENT PROGRAM

CHAPTER 713, ACTS OF 1983 AN ACT RELATIVE TO THE INTERMENT OF CERTAIN PERSONS

After the bill became law in December 1983, we immediately began establishing procedures to implement this Chapter with the help of the State Archaeologist, Director of Administration of EOCD, Assistant Secretary of EOCD, and Representative Bassetts's Aid.

The next step was to secure enough funds that would cover the cost of reinterments for the remainder of this fiscal year. In order for this to be done, we had to submit a supplemental budget request. Since it was necessary to demonstrate to the Legislature our need for the supplemental appropriation, we were asked by EOCD to provide them with 1) Certification from the State Archaeologist of the number of skeletal remains to be reinterred; 2) support material explaining the need for a supplemental appropriation. Upon receipt of this material, EOCD initiated the steps toward submitting our request.

In April, our supplemental budget request for \$20,000 was approved and put into our account. All Native American organizations and tribal councils were then notified and asked for their participation in the program. Their responsibility would be to reinter the Indian skeletal remains that were disturbed before this law came into effect. A system was set up to process the invoices from the councils and organizations. By the end of the year, 4 tribal councils/organizations had reinterred most of the Indian remains. All bills were submitted to the Commission and put on to state invoices and submitted to EOCD for processing.

HUNTING AND FISHING CASES

Four (4) Native Americans from Mashpee were arrested and charged with hunting and fishing violations at the First District Court of Barnstable. After a number of months of court proceedings, on October 23, 1984, Judge Brian Rowe allowed a motion to dismiss the cases.

The grounds for this motion were based on the following "Findings of Fact":

- a) That the Mashpee Indians are a tribe of the Wampanoag Indians.
- b) That all the Defendants are Indians and are enrolled members of the Mashpee Tribe, and are natural descendants of the original Indian inhabitants of Barnstable County.
- c) That the Mashpee Indians have never given up their rights to hunt and fish, and have continued to exercise those rights as did their forefathers since time immemorial.
- d) That the right to hunt and fish by an Indian in order to sustain himself, his family, and the other members of the tribe is an essential and aboriginal right and way of life.
- e) That in order for the individual Indian to comply with the licensing requirements for hunting, fishing, and trapping the fees are in excess of One Hundred (\$100.00) Dollars.
- f) That the Commonwealth of Massachusetts has long recognized the ancient and aboriginal claim of Indians within the Commonwealth to hunt and fish for the sustenance of their families.
- g) That the issue before the Judge is that of the Commonwealth regulating the aboriginal rights of the Indians to hunt and fish for their sustenance and is not the issue as to regulations directed towards conservation.

MASSACHUSETTS INTERNSHIP PROGRAM

During the summer, Patrick Ireland, a student from Harvard University, was placed in our office. Patrick researched material on the Freetown-Fall River Indian Reservation (Watuppa), and drafted a 33 page report on historical developments that led to the establishment of the Reservation. He highlighted the dubious legality of the Commonwealth's action with regards to the Indian lands in question. The paper also demonstrates that Massachusetts's Indians today do not have legal title to the Reservation. His internship lasted from June 11th to August 23rd.

Michael Weisberg, a student from Milton Academy, through their Community Service Program, was placed in our office the beginning of May for a 5 week period. Michael provided general clerical support to the office.

Kenneth Attocknie, through the American Indian Program at Harvard Graduate School, continued his internship with us until June of this year. Aside from researching treaties relative to aboriginal hunting & fishing rights of Native Americans, he researched an abundance of information on Grafton land transactions.

DISADVANTAGED STUDENT AID PROGRAM

At the end of July, we were informed by the Board of Regents that in the fiscal year 1985 annual budget (July 1, 1984), \$35,000 was appropriated specifically for Native Americans under the Disadvantaged Student Aid Program (State Appropriation 7100-9704). This additional amount of scholarship money allowed for an increase in the number of Native American Scholarship recipients, (approximately 23,) who wanted to attend an institution of higher learning.

Unlike our Indian Scholarship Program (Chapter 707, Sec. 1), payment was made by the Board of Regents, directly to the institution which would cover tuition and mandatory fees.

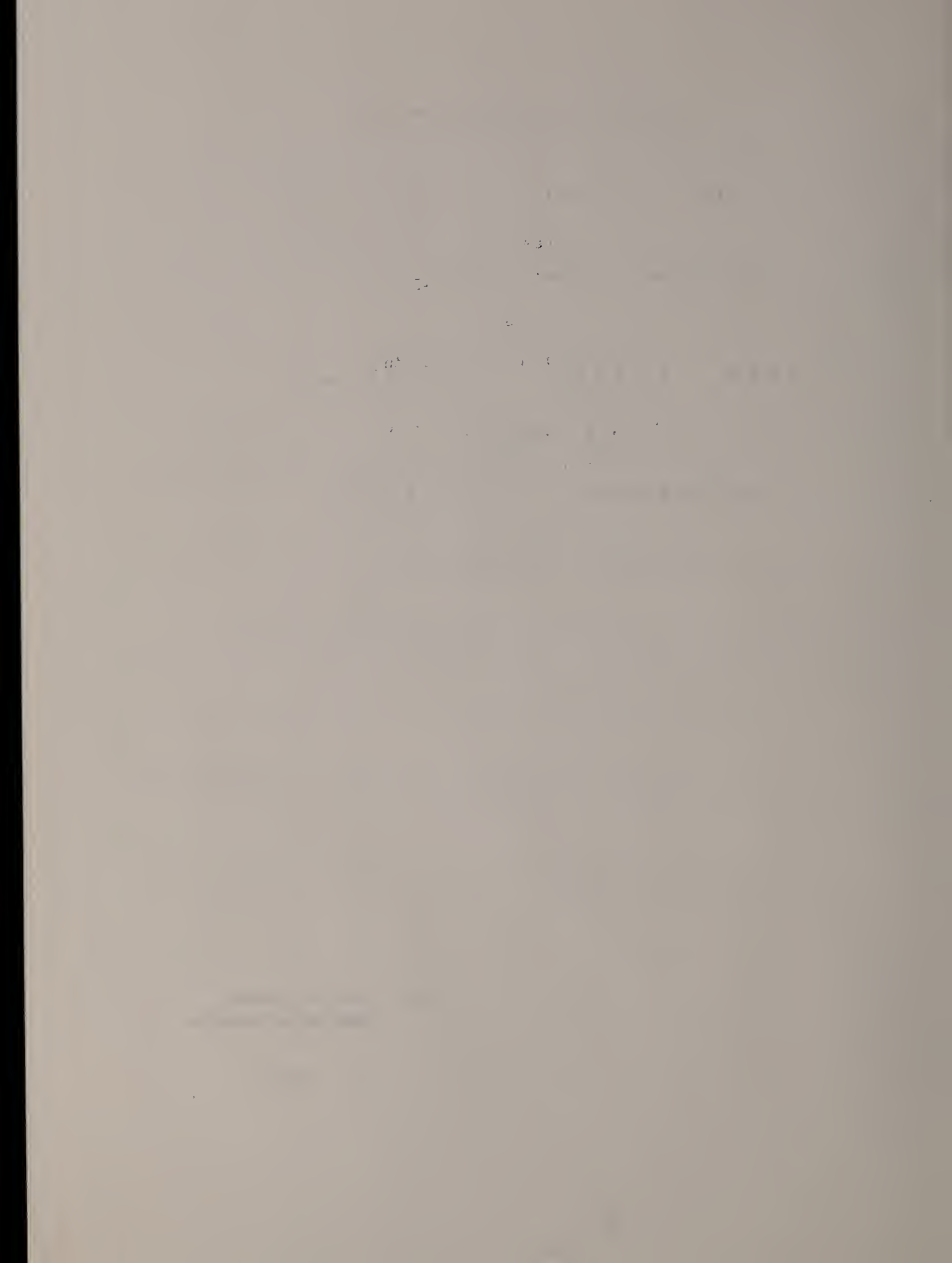
In order to take advantage of this program for the coming Fall Semester, the Board of Regents asked that the Indian Scholarship Committee and Indian Commissioners actively seek additional candidates for this program and forward the names to them as soon as possible.

For the 1984 Fall Semester (September 1984 to January 1985) 15 Native American students received scholarships under this program.

REPORT ON THE
35TH ANNUAL CONFERENCE
OF THE
GOVERNOR'S INTERSTATE
INDIAN COUNCIL

BY: John A. Peters
Executive Director

1984





The Commonwealth of Massachusetts

Commission on Indian Affairs

John W. McCormack Building

One Ashburton Place - Rm. 1004

Boston, Mass. 02108

Telephone 617-727-6394 / 6966

MICHAEL S. DUKAKIS

Governor

AMY S. ANTHONY

Secretary

JOHN A. PETERS

Executive Director

TO: Commissioners

FROM: John A. Peters, Executive Director

DATE: Monday, November 5, 1984

SUBJECT: REPORT ON THE 35TH ANNUAL CONFERENCE OF THE GOVERNOR'S
INTERSTATE INDIAN COUNCIL

The conference was represented by 15 states this year. A number of others had pre-registered but at the last minute could not attend. There were several new states that attended and they, combined with enough of the "old faces" kept the continuity which enabled us to generate a very successful program for the week.

I will attempt to list what I consider the highlights of the convention to give you an idea of the work we did throughout the week.

R E P O R T

Governor Olson expressed the need for cooperation and understanding of issues between state and tribe, that Commissions funded by state government can be this forum for communication and assist in working to resolution. He also stated that it was absolutely necessary for Indian people to become involved in state government at visible and viable levels. He reviews committees and attempts to make appointments where he has the authority.

Attorney General Robert Wefald stressed negotiation attempts rather than litigation in that, litigation is costly and takes years and negotiation settles an issue quickly with options for changes as necessary. He cited several agreements made with tribes in North Dakota through a law passed, after submission by his agency, called the State/Tribal Agreement Legislation.

Richard LaFromboise, Tribal Chairman of the Turtle Mountain Band of Chippewa gave the tribal perspective of self-government and the relationship of tribes directly to the federal level. He cited a need for state level government officials to understand "sovereignty" as tribal people believe it to be and gave examples of real issues creating animosity because of lack of understanding.

Scott Ratliffe, Wyoming, Admissions Counselor, Central Wyoming College gave his perspective as a state legislator, of the continuing need for open communications and understanding of the issues. He felt the state cannot make decisions for the tribes, that the tribes have to be aware of and deal with state agencies directly and finally, that we all need to be aware of these two total differences of opinion on state/tribal issues and willing to work with them to the benefit of all.

The Executive Committee, having met the evening before to finalize the agenda and discuss details, recommended that Niklak Butler, Para-legal advisor to the Leonard Peltier Defense Committee, be allowed time on the agenda the first opening session to bring recent information on his case as they were in Bismarck for his trial. GIIC delegates voted that a Resolution be developed by the Resolutions Committee supporting the concept of a fair and unbiased trial for Leonard Peltier. The Motion carried and Bob Batson, New York, Chairman of the Committee was instructed to develop the resolution and return to the assembly for ratification.

Tuesday's business included workshops on "Communications Today, Tommorrow" in the following areas: State Legislature, facilitated by Scott Ratliffe; Health, Education, Social Services, facilitated by Bruce Jones; Indian Rights and Responsibilities, facilitated by Joe Quetone and State/Tribal Relations Communications, facilitated by Ray Apodaca. All GIIC delegates and other participants were able to attend each workshop throughout the day and participate with their concerns, problems, progress in across the table discussions.

Tuesday evening's banquet featured Merle Lucas, Executive Director, Montana Intertribal Policy Board, as the main speaker who gave his perspective on "Tribal/State/Federal Economic Development Initiatives". His speech will be printed in the final report. Mr. Lucas has been an official delegate to GIIC for seven years prior to attaining his new position two years ago and is very aware of the goals of the organization. His report contained very current information and problems/solutions to the needs of tribes and was officially adopted by the group on Friday's business as a replacement for the workshop that was to be held that day on Economic Development.

Wednesday and Thursday highlights on the tour was the visit to the Knife River Indian Village site, the Garrison Dam, the overnight stay at 4-Bears Motor Lodge in New Town and the trip to the Great Plains Coal Gasification Plant at Beulah. En route we visited several small Indian communities. The motel facilities were excellent and the program for the evening at 4-Bears, organized by Danile Henry and Vicki Bell, was the highlight of the two day tour.

The Executive Committee met upon return to Bismarck Thursday evening and again recommended specific revisions and additions to the agenda in order to expedite the final business session on Friday.

Friday's business included discussion on the minutes and final report of the Tulsa meeting, Nominating Committee report, Resolutions Committee report, Site Selection Committee report, Amendment to the By-Laws, Election of Officers, Election of Executive Board, and verbal state reports of 15 states present.

Officers Elected: Juanita Helphrey, ND, President; Ray Apodaca, TX, Vice-President; Carol Coulan, MI, Secretary/Treasurer. The officers are automatically on the Executive Board and represent three of four regions.

Executive Members Elected: Northwest - Sandra Borbridge, AK, Scott Ratliffe, WY; Southwest - Bruce Parry, UT, Cindy Kent, CO; Northeast - Bob Batson, NY, John Peters, MA; Southeast - Jayne Kushner, AL, Joe Quetone, FL, Bruce Jones, NC - the New Executive Board drew lots for one and two year terms as required by the newly adopted amendment to the By-Laws. Said Amendment also recognized the four regions as official areas for elective Boards members.

The Site Selection for 1985 recommended Michigan (Detroit) as the city and general area of the conference. It was indicated that the conference will be held the latter part of September during Indian week festivities. GIIC delegates approved.

The nine Resolutions adopted as presented by the Resolutions Committee included:

- a) A Commendation to the Haskell Institution of Higher Learning for its 100th Anniversary.
- b) A Resolution supporting the concept of a fair and unbiased trial on the Leonard Peltier case. Barb Poitra, ND, was designated to attend the trial as official GIIC representative.
- c) A Resolution from North Carolina regarding NUIC total control of urban Indian funds under the Job Training Partnership Act and opposing that recommendation in that Indian controlled or recognized group should be able to apply for and receive funds from JTPA.
- d) A Resolution requesting President of GIIC to request Phillip Morris Company to develop a directory of Native American Officials.
- e) A Resolution adopting the policy that official delegates of GIIC who attend other national meetings such as NCAI, NTCA, NUIC, be designated as the official GIIC representative, to assure intercommunications (President to appoint).
- f) A Resolution reflecting our opposition to the directives of Measure 456 (as supported by the Washington tribes).
- g) A Resolution to be developed by President and Merle Lucas regarding the A78 setaside of BIA funds.
- h) A Resolution supporting the amendment to the Indian Health Care Improvement Act called the Juvenile Indian Alcohol Bill.

The ninth resolution was to commend President Helphrey and her staff and delegates for the excellent conference!

[Similar Matter Filed During Past Session —
See Senate No. 737 of 1983]

SENATE No. 793

By Mr. Backman, a petition (accompanied by bill, Senate, No. 793) of Jack H. Backman, Doris Bunte and A. Joseph DeNuccci for legislation to prevent the breakup of American Indian families and to establish standards for removing and placing Indian children away from their families. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT TO PREVENT THE BREAKUP OF AMERICAN INDIAN FAMILIES,
AND TO ESTABLISH STANDARDS FOR REMOVING AND PLACING INDIAN
CHILDREN AWAY FROM THEIR FAMILIES.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 The General Laws are hereby amended by inserting after
2 Chapter 119 the following chapter: --

3 CHAPTER 119A

4 INDIAN CHILD WELFARE ACT

5 An Act to Prevent the Breakup of American Indian Fam-
6 ilies, and to Establish Standards for Removing and Placing
7 Indian Children Away from their Families.

8 *Section 1. PURPOSE.* Special relationships exist between
9 the Commonwealth of Massachusetts and the Indians of the
10 region. These relationships require recognition and redress of
11 child welfare problems involving Indian children. This Act
12 sets standards governing state action threatening termination
13 of parental rights or removal of an Indian child from the fam-
14 ily. A child's right to sound health and normal physical, men-
15 tal, spiritual, moral development (as defined in § 1, ch. 119
16 M.G.L.) include a right to cultural heritage. Interpretations
17 of this Act shall be made in a spirit protecting the cultural
18 heritage of American Indians.

19 *Section 2. DEFINITIONS.*

20 A. "Adoptive placement" means permanent placement of an
21 Indian child for adoption, including any action resulting in a
22 final decree of adoption;

23 B. "child custody proceeding" means and includes foster care
24 placement, termination of parental rights, preadoptive and
25 adoptive placement;

26 C. "department" means Department of Social Services;

27 D. "extended family member" shall be defined by law or cus-
28 tom of the Indian child's tribe or, in the absence of such law
29 or custom, shall be a person who has the following relationship
30 to the Indian child: grandparent, aunt or uncle, brother or
31 sister, brother-in-law or sister-in-law, niece or nephew, first
32 or second cousin, or step parent;

33 E. "foster care placement" means any action removing an
34 Indian child from its parent or custodian for temporary place-
35 ment in a foster home or institution or the home of a guardian
36 or conservator where the parent or custodian cannot have the
37 child returned upon demand but where parental rights have
38 not been terminated;

39 F. "Indian" means any individual who is a member or de-
40 scendant of a member of a North American tribe, band, or
41 other organized group of native people who are indigenous to
42 the continental United States or who otherwise have a special
43 relationship with the United States or a state through treaty,
44 agreement, or some other form of recognition. This includes
45 any individual who claims to be an Indian and who is regarded
46 as such by the Indian community in which he or she lives or by
47 the Indian community of which he or she claims to be part.
48 This definition also includes Alaskan Natives;

49 G. "Indian child" means any unmarried Indian under age
50 eighteen;

51 H. "Indian child's tribe" means

52 i) the Indian tribe in which an Indian child has membership
53 or eligibility for membership, or

54 ii) where an Indian child is a member of or eligible for mem-
55 bership in more than one tribe, the Indian tribe with which
56 the Indian child has more significant contacts;

57 I. "Indian custodian" means any person who has legal cus-
58 tody of an Indian child under tribal law or custom or under
59 state law or to whom the parent has transferred temporary
60 physical care, custody and control;

61 J. "Indian organization" means any group, association, part-

62 nership, corporation, or other legal entity owned or controlled
63 by Indians, or with an Indian majority membership;

64 K. "Indian tribe" means any North American tribe, band, or
65 other organized group of native people indigenous to the con-
66 tinental United States or who otherwise have a special rela-
67 tionship with the United States or a state;

68 L. "parent" means any biological parent of an Indian child
69 or any person who has lawfully adopted an Indian child, in-
70 cluding adoptions under tribal law or custom. It does not in-
71 clude the unwed father where paternity has not been acknowl-
72 edged or established;

73 M. "preadoptive placement" means temporary placement of
74 an Indian child in a foster home or institution after the termi-
75 nation of parental rights, but prior to or in lieu of adoptive
76 placement;

77 N. "termination of parental rights" means any action re-
78 sulting in termination of the parent-child relationship.

79 Section 3. In any child custody proceeding involving an In-
80 dian child residing or domiciled outside a tribal reservation,
81 the state court having jurisdiction shall proceed in accordance
82 with the provisions of this Act.

83 Section 4. *INVOLUNTARY STATE COURT PROCEED-*
84 *ING.* In any involuntary state court child custody proceeding
85 for foster care placement or termination of parental rights
86 where the court knows or has reason to know that the action
87 involves an Indian child, a court shall ensure that notice is
88 given, and that active efforts, and removal and placement pro-
89 cedures are followed.

90 1. *Notice.* A party instituting child custody proceedings
91 shall notify a child's parent(s) or custodian, and a child's tribe
92 of the pending action. Notice shall:

- 93 i) be sent by registered mail with return receipt requested;
94 ii) inform the recipient of rights specified in this Act;
95 iii) be written in language the sender knows the recipient
96 understands.

97 A court may not hold any proceeding under this section un-
98 til fifteen days after the parent or custodian receives notice. A
99 court must hold a proceeding within thirty days after the
100 parent or custodian receives notice. If a child's parent, cus-

101 todian, or tribe requests additional time to prepare for a pro-
102 ceeding under this section, the court shall grant up to twenty
103 additional days for preparation. If a party instituting child
104 custody proceedings is unable to identify or locate an Indian
105 child's parent, custodian, or tribe, such party shall request
106 assistance from an Indian organization in order to provide
107 the required notice.

108 2. *Active Efforts.* Upon satisfaction of notice requirements,
109 a party instituting child custody proceedings and the court
110 shall make active efforts to prevent the breakup of an Indian
111 family. The party and the court may receive from Indian or-
112 ganizations recommendations about appropriate available fam-
113 ily support services. Family support services may include, but
114 are not limited to, community or government programs for
115 child care, homemaker assistance, counselling, rehabilitation,
116 or education. Where appropriate, the court may direct the
117 party instituting a proceeding to assist in establishing a pro-
118 gram to keep the family together. When support services con-
119 tinue for an extended time, the court may request monthly
120 progress investigations by an appropriate Indian organization.
121 Upon finding a stable family situation, the court may termi-
122 nate the monthly investigations.

123 3. *Removing or Placing an Indian Child.* After the "active
124 efforts" stage begins, a court shall wait a reasonable time, at
125 least one month, before holding any other proceeding seeking
126 a child's removal or placement. Proceedings may resume only
127 when the party instituting the action satisfies the court by
128 clear and convincing evidence that active efforts to keep the
129 family together will not succeed. In any proceeding under
130 this section, the court shall consider evidence of the prevailing
131 social and cultural conditions, customs, and traditions of the
132 Indian child's tribe and/or community. If the court determines
133 that active efforts have failed, it may:

134 i) order foster care placement only if clear and convincing
135 evidence establishes that continued custody by parent(s) or
136 custodian will likely result in a child's serious emotional or
137 physical damage; or

138 ii) order termination of parental rights only if evidence be-
139 yond a reasonable doubt establishes that continued custody by

140 parent(s) or custodian will likely result in a child's serious
141 emotional or physical damage.

142 *Section 5. VOLUNTARY PLACEMENT OR TERMINA-*
143 *TION RIGHTS.*

144 1. *Consent.* Where a parent or custodian voluntarily con-
145 sents to foster care placement or termination of parental
146 rights, such consent shall not be valid unless executed in writ-
147 ing and recorded by a judge in a court of competent jurisdic-
148 tion. The presiding judge shall explain in detail to the con-
149 senting party the terms and consequences of consent. The pre-
150 siding judge must certify in writing that:

151 i) the explanation was given as required;

152 ii) the explanation was given in or interpreted into a lan-
153 guage understood by the consenting party;

154 iii) the explanation was fully understood by the consenting
155 party.

156 Before a parent or custodian may consent to foster care
157 placement or termination of parental rights, the child must
158 be at least ten days old.

159 2. *Withdrawal of Consent.*

160 A. Any parent or Indian custodian may withdraw consent
161 at any time following a voluntary foster care placement or
162 voluntary termination of parental rights, and upon such with-
163 drawal the court shall execute the child's return to the pa-
164 rent(s) or custodian.

165 B. At any time before the court enters a final decree in a
166 voluntary termination or adoption proceeding, when a parent
167 or Indian custodian for any reason withdraws consent, the
168 court shall stop the proceedings and return the child.

169 C. After any court enters a final adoption decree, a parent
170 or custodian may withdraw consent and petition the court to
171 vacate the decree. If the court finds that fraud or duress or
172 other inappropriate or unlawful means were used to obtain
173 consent, it shall vacate its decree and return the child. Where
174 an adoption has been successfully in effect for at least two
175 years, a court may determine that the adoption may not be
176 invalidated under this provision.

177 *Section 6. PLACEMENT.*

178 A. The following order of preference governs any adoptive

179 placement of an Indian child:

- 180 1. placement with an extended family member;
- 181 2. placement with other members of the child's tribe;
- 182 3. placement with other Indian families;
- 183 4. placement with whoever the court finds satisfactory.

184 In any adoptive placement proceeding, an Indian organiza-
185 tion may submit to the court a report of available placements
186 together with any recommendations. The standards to be ap-
187 plied in determining a child's placement under the above order
188 of preference shall be the prevailing social and cultural stand-
189 ards in the Indian community with which the child's family
190 resides or maintains ties.

191 B. When a child will enter foster care or preadoptive place-
192 ment, the court shall ensure placement in the least restrictive
193 setting. The court shall ensure that a setting most nearly ap-
194 proximates a family environment, is located as close as pos-
195 sible to the child's family home, and meets all of the child's
196 special needs. The following order of preference governs any
197 foster care or preadoptive placement of an Indian child:

- 198 1. placement with an extended family member;
- 199 2. placement in a foster home licensed, approved, or specified
200 by a child's tribe;
- 201 3. placement in an Indian foster home licensed or approved
202 by an authorized non-Indian licensing authority;
- 203 4. placement in an institution for children with a program
204 meeting the child's needs, and approved by an Indian tribe or
205 operated by an Indian organization.

206 In any foster care or preadoptive placement proceeding, an
207 Indian organization may submit to the court a report of avail-
208 able placements together with any recommendations made in
209 consideration of preference standards.

210 C. In a placement under this section, if a child's tribe by
211 resolution establishes a different order of preference than those
212 established in this section, the court or agency effecting place-
213 ment shall follow the tribe's order.

214 D. In effecting placement, the court or agency shall con-
215 sider preferences of the child, the child's parent(s), or the
216 child's custodian.

217 E. In applying the preferences, the court or agency shall

218 give weight to a consenting party's desire for anonymity.

219 F. *Returning Custody to Parent.* Whenever a court vacates
220 a final adoption decree of an Indian child, or the adoptive pa-
221 rent(s) voluntarily consent to terminate parental rights, a
222 parent or prior custodian may petition for return of custody.
223 Unless a proceeding conducted subject to a section of this Act
224 shows that return violates the child's best interests, the court
225 shall grant the petition.

226 G. Except when an Indian child returns to the party hav-
227 ing custody before initial placement, whenever further place-
228 ment requires removing the child from a foster care home or
229 institution, the court or agency ordering further placement
230 shall follow the placement provisions of this section.

231 H. When an Indian, at least eighteen years old, a subject of
232 adoptive placement, requests information about tribal affilia-
233 tion, the court entering the final adoption decree shall give to
234 the individual information relevant to affiliation and any rights
235 flowing from tribal membership.

236 I. Improper custody exists when any petitioner in an Indian
237 child custody proceeding, without authorization or contrary to
238 the provisions of this Act, removes a child from custody of the
239 parent or Indian custodian or retains custody after a visit or
240 other temporary relinquishment of custody. In any case of im-
241 proper custody, the court shall return the child to the par-
242 ent(s) or custodian.

243 *Section 7 EMERGENCY REMOVAL OR PLACEMENT.*
244 Notwithstanding the provisions of this Act, in order to pre-
245 vent imminent physical damage to an Indian child, an appro-
246 priate authority of the Commonwealth may order emergency
247 removal or placement of an Indian child. The involved authori-
248 ty shall immediately terminate the emergency removal or
249 placement when the threat of imminent physical danger sub-
250 sides. As soon as possible after the emergency ends, the au-
251 thority shall:

252 (i) initiate child custody proceedings, subject to the pro-
253 visions of this Act; or

254 (ii) return the child to the parent(s) or custodian.

255 *Section 8.* In any removal, placement, or termination pro-

256 ceeding under this Act where the court determines indigency,
257 the parent(s) or custodian shall have the right to court-ap-
258 pointed counsel.

259 *Section 9.* All parties to a proceeding under this Act shall
260 have the right to examine any document filed with the court
261 which may bear on the resolution of the case.

262 *Section 10.* An Indian child, parent, custodian, Indian tribe,
263 or Indian organization may petition any court of competent
264 jurisdiction to invalidate a decree ordering placement or term-
265 ination of parental rights for a violation of provisions of this
266 Act.

267 *Section 11.* Any state authority involved in placing Indian
268 children away from their families shall maintain a record of
269 each adoptive, foster care, or preadoptive placement of an
270 Indian child. Upon request, parties shall make their records
271 available to each other. These records shall evidence efforts to
272 comply with the placement preferences as outlined in Section
273 6 of this Act. If at any time a child's tribe requests inspection
274 of these records, the recording organization shall make them
275 available.

276 *Section 12. INDIAN CHILD WELFARE ADVISORY*
277 *BOARD.* There is hereby established an Indian Child Welfare
278 Advisory Board, to be composed of five members appointed
279 by the Governor of Massachusetts. Members of the Indian
280 Child Welfare Advisory Board shall be nominated one each
281 by the following organizations: Gayhead Wampanoag Tribal
282 Council; Mashpee Wampanoag Tribal Council; Nipmuc Tribal
283 Council; the state's designated liaison with resident members
284 of the Passamaquoddy, Penobscot, Maliseet, and Mic Mac
285 tribes, with whom the state has entered into treaties and
286 other agreements; and the Massachusetts Commission on In-
287 dian Affairs. Members shall be appointed to serve a term of
288 three years. The Indian Child Welfare Advisory Board shall:
289 i) report to the Commissioner of the Department of Social
290 Services;
291 ii) monitor implementation of this Act;
292 iii) make recommendations concerning Indian child wel-
293 fare and other matters relevant to this Act and its purposes;

294 iv) review regulations of the Department of Social Services
295 relevant to this Act and its purposes, and make recommenda-
296 tions concerning them;

297 v) make recommendations on policy affecting Indian chil-
298 dren on both state and regional levels;

299 vi) make recommendations to both the Commissioner of
300 the Department of Social Services and the General Court of
301 the Commonwealth on impacting federal policy and securing
302 federal assistance to further the purposes of this Act.

303 An Indian Child Welfare Advisory Board shall be appointed
304 not more than three months after the effective date of this
305 Act. The Indian Child Welfare Advisory Board shall meet at
306 least four times annually.

307 *Section 13.* Within ninety days of this Act's enactment, the
308 Department of Social Services shall formulate written regula-
309 tions including but not limited to the following information:

310 i) assignment of responsibility within the department to
311 fulfill relevant notice requirements of this Act;

312 ii) a policy statement explicating the department's role in
313 upholding the purposes of this Act;

314 iii) standards formalizing the department's internal pro-
315 cedures designed to assure compliance with applicable pro-
316 visions of this Act. Within ten days of formulation, the de-
317 partment of social services shall send a copy of these regula-
318 tions, by registered mail with return receipt requested, to
319 state courts with jurisdiction over proceedings covered in this
320 Act. Upon request, the department shall make these regula-
321 tions available to Indian organizations.

322 *Section 14. SEVERABILITY.* If any provision or clause of
323 this chapter or application thereof to any person or circum-
324 stances is held invalid, such invalidity shall not affect other
325 provisions or applications of this chapter which can be given
326 effect without the invalid provision or application, and to this
327 end the provisions of this chapter are declared to be severable.

HOUSE No. 5498

By Mr. Rushing of Boston, petition of Byron Rushing, Thomas M. Gallagher, Thomas J. Valley, Doris Bunte and Barbara Hildt for an investigation by a special commission (including members of the General Court) relative to the revision of the Seal and Motto of the Commonwealth. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO THE SEAL AND MOTTO OF THE COMMONWEALTH.

1 *Resolved*, That a special commission to consist of two members
2 of the senate, three members of the house of representatives, the
3 secretary of the commonwealth or his designee, the executive
4 director of the Massachusetts historical commission or his designee,
5 the executive director of the council on arts and humanities or
6 his designee and five persons to be appointed by the governor is
7 hereby established for the purpose of making an investigation and
8 study relative to the seal and the motto of the commonwealth and
9 the possible revision of them.

10 Said commission shall report to the house of representatives the
11 results of its investigation and study, and its recommendations, if
12 any, together with drafts of legislation necessary to carry its
13 recommendations into effect, by filing the same with the clerk of
14 the house of representatives on or before July first, nineteen
15 hundred and eighty-four.

This Document Has Been Printed On 100% Recycled Paper.

HOUSE No. 3622

By Ms. Bunte of Boston, petition of Doris Bunte and other members of the House for legislation to increase the number of scholarships for American Indians attending public state institutions of higher learning. Education.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT INCREASING THE NUMBER OF SCHOLARSHIPS FOR NATIVE AMERICANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Section 7H of chapter 69 of the General Laws as added by
- 2 section 1 of chapter 707 of the acts of 1981, is hereby amended by
- 3 striking out in line 1 the word "thirty" and inserting in place
- 4 thereof the word sixty.

HOUSE No. 3624

By Ms. Bunte of Boston, petition of Doris Bunte, Sandra Graham, Raymond A. Jordan, Jr., Byron Rushing, Peter A. Vellucci and Michael J. Barrett relative to scholarships for Native Americans. Education.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT RELATIVE TO SCHOLARSHIPS FOR NATIVE AMERICANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 7H of chapter 69 of the General Laws as added by
2 section I of chapter 707 of the acts of 1981, is hereby amended by
3 adding after the word "scholarships" in line 2, the following: —
4 including sufficient amounts to cover room, board, books, and
5 other related expenses; and further amended by adding at the end
6 of the next to last sentence of this section, the following: — includ-
7 ing sufficient amounts to cover room, board, books, and other
8 related expenses.

